

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:03CV199

DEBORAH JEAN INGLE,)	
Administrator of the Estate of)	
Christopher James Burt Ingle,)	
)	
Plaintiff,)	
)	
Vs.)	<u>ORDER</u>
)	
MIKE YELTON, in his official)	
and individual capacities;)	
CHRIS YOUNG, in his official)	
and individual capacities;)	
JOE JOHNSON, in his official)	
and individual capacities; and)	
THE CITY OF ASHEVILLE,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on the objection of Plaintiff's counsel to the undersigned's previous Order of November 8, 2006, and his request for reconsideration or modification.

Counsel has misconstrued the Court's Order. The Court did not accuse counsel of failing to disclose the existence of this evidence to the defense; instead, the Court wants to know why counsel did not disclose the

existence of this evidence to the Court. It is simply implausible that during a hearing, the purpose of which was to explore the existence of a videotape, that counsel would not tell the Court that he had in his possession a photograph of a police vehicle which he alleges contained a video camera. Indeed, the photograph, if it displays that which counsel claims, would have supported the Plaintiff's position that such a tape exists. Why counsel would not have disclosed this in support of his case is of concern to the Court.

Moreover, requiring counsel to respond to this question does not require the disclosure of any privileged information. Indeed, counsel has now filed copies of this photograph as a matter of public record. However, out of an abundance of caution, the Court will allow counsel to file his affidavit *in camera*.

IT IS, THEREFORE, ORDERED that the objection and motion for reconsideration of Plaintiff's counsel is hereby **DENIED**.

IT IS FURTHER ORDERED that counsel's affidavit be filed *in camera* and under seal on or before **NOVEMBER 27, 2006**.

Signed: November 14, 2006



Lacy H. Thornburg
United States District Judge

